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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,878	07/25/2003	Michael J. Hopmeier	54432-20001.01	1035
25227	7590	03/08/2005		
MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 300 MCLEAN, VA 22102			EXAMINER CHRISTMAN, KATHLEEN M	
			ART UNIT 3713	PAPER NUMBER

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/626,878	<b>Applicant(s)</b> HOPMEIER ET AL.	
	<b>Examiner</b> Kathleen M Christman	<b>Art Unit</b> 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>07/25/2003</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Priority*

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence(s) of the specification or in an application data sheet by identifying the prior application by application number (37 CFR 1.78(a)(2) and (a)(5)). If the prior application is a non-provisional application, the specific reference must also include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. **Claims 6, and 19 are rejected under 35 U.S.C. 112, second paragraph**, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims recite the limitation "and combinations thereof". In claim 6 (and similarly in claim 19, it is unclear as to if the applicant intends to claim one sensor with several different parameters or whether it is intended that there be multiple sensors each having a different parameter. The examiner suggests using a limitation such as "at least one of the following..."

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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2. **Claims 1-7, 10, 14-20, and 23, as best understood are rejected under 35 U.S.C. 102(b)** as being anticipated by Batchie (US 4432731). The broadly claimed structure can be interpreted as the "Bomb Squad Training Device" of Batchie. Regarding **claims 1 and 14**, Batchie shows a system and method of use for simulated device training comprising a simulated device having atleast one sensor, a controller interfacing with the sensor and monitoring the sensor for a stimulus, and a feedback device interfacing with the controller and providing feedback to the user, see Figure 1-3, and col. 1:32-36, 44-53. Regarding **claims 2 and 15**, as the device of Batchie is an explosive it is therefor also a munition. Regarding **claims 5 and 18**, the sensor being a mercury trembler switch is shown in col. 2: 63. Regarding **claims 6 and 19**, the sensor measuring a parameter of movement is shown in col. 2: 67- col. 3: 4. Regarding **claims 7 and 20**, the feedback device being an LED, a lighting device is shown in col. 5: 63-65. Regarding **claims 10 and 23**, the communication of the sensors and the feedback device is a hardwire.

The body of the device is disclosed as being an attaché case, the explosive within the attaché case is disclosed as being capable of being an improvised explosive device, see col. 1: 41-53. Regarding to **claims 3 and 16**, there is a sensor on the outside of the attaché case that warns of intrusion into the attaché case. As per **claims 4 and 17**, there is a simulated locking device on the outside of the attaché case, symbolized by 51 and 57.

3. **Claims 1, 9, 11-14, 22, and 24-26 are rejected under 35 U.S.C. 102(b)** as being anticipated by Schrenk et al (US 4091550). Regarding **claims 1 and 14**, Schrenk et al discloses a simulated device, at least one sensor connected to the simulated device, a controller interfacing with the sensor and a feedback device. Regarding **claims 9 and 22**, the computer has the ability to record a trainee's performance. Regarding **claims 11-13 and 24-26**, the sensors are adjustable (**claims 11 and 24**), controlled by the controller (**claims 12 and 25**) and the controller is the computer (**claims 13 and 26**). See claims 1-9 and Figures 1-3.

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. **Claims 8 and 21 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Batchie (US 4432731) in view of Greenwood (US 4114080). Batchie fails to show a gas supply, a cannon, and a sparking device for igniting fuel from the gas supply. However, Batchie does disclose that a simulated explosion would be beneficial. Greenwood discloses a device containing a gas supply, means for igniting the gas, and a cannon type piece. As Batchie discloses the benefit of having a simulated explosion and Greenwood discloses a means by which to create a simulated explosion it would have been obvious to one of ordinary skill in the art to combine the device of Batchie with the device of Greenwood, to add this beneficial structural element.

***Conclusion***

This is a continuation of applicant's earlier Application No. 09/481682. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS**

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**ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Christman whose telephone number is (571) 272-4435. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

  
Kathy Christman  
Patent Examiner  
March 3, 2005

  
**XUAN M. THAI**  
**SUPERVISORY PATENT EXAMINER**  
AM3713